



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 22

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Fairfax, VA 22030

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MAY 13 2005

In re Application of :
David Teller :
Application No. 09/964,679 :
Filed: September 28, 2001 :
Title of Invention: :
BEVERAGE DISPENSING :
CONTROL SYSTEM :

DECISION
OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 2005, to revive the above-identified application based upon unintentional delay. The petition is properly treated as a petition to withdraw the abandonment of the application under 37 CFR 1.181.

The petition is granted.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed February 23, 2004. The Office communication set a three (3) month period for reply. No reply having been received, this application became abandoned on May 24, 2004. A Notice of Abandonment was mailed October 6, 2004.

The instant petition

Applicant files this petition and avers that a timely response to the February 23, 2004 Office communication was filed and received in the Office. In support of this assertion, Applicant files a copy of his return-receipt postcard.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of a Response to Election/Restriction Requirement by this Office on March 8, 2004.

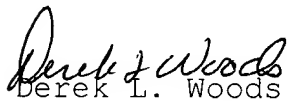
"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the holding of abandonment is improper and is hereby withdrawn.

A refund of the petition fee, \$750.00, has been credited to deposit account 10-0233.

The application file is being referred to Technology Center Art Unit 3653 for processing of the Response to Election/Restriction Requirement, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.



Derek L. Woods
Petitions Attorney
Office of Petitions